

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Arreaga	Team: Squad #6	CCRB Case #: 201700610	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/25/2017 5:10 AM	Location of Incident: § 87(2)(b)	Precinct: 84	18 Mo. SOL 7/25/2018	EO SOL 7/25/2018	
Date/Time CV Reported Wed, 01/25/2017 10:32 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 01/25/2017 10:32 AM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Christopher Drews	19602	944519	WARRSEC		
2. POM Joseph Davin	24383	950278	WARRSEC		
<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>		
1. POF April McLaine	04969	948027	084 PCT		
2. POM Steven Nieves	23976	950954	084 PCT		
<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>			
A.POM Christopher Drews	Abuse: Police Officer Christopher Drews entered § 87(2)(b) in Brooklyn.				
B.POM Joseph Davin	Abuse: Police Officer Joseph Davin entered and searched § 87(2)(b) in Brooklyn.				

### Case Summary

On January 25, 2017, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board (CCRB) as a walk-in complainant during which time she was interviewed for this incident.

On January 25, 2017, at approximately 5:10 a.m., Police Officers Christopher Drews and Joseph Davin of the Bronx Warrant Squad arrived to § 87(2)(b)'s residence located at § 87(2)(b) in Brooklyn, to investigate an arrest warrant and a bench warrant for § 87(2)(b)'s nephew § 87(2)(b). § 87(2)(b) owns the apartment and was home alone at the time. Police Officer Drews briefly showed a warrant to § 87(2)(b) during which time she recognized the photo on the warrant as her nephew. § 87(2)(b) informed the officers that § 87(2)(b) was not in the apartment and she did not know where he was. As § 87(2)(b) attempted to close the apartment door, Police Officer Drews placed his foot in the doorway to prevent it from closing (**Allegation A**). He then told § 87(2)(b) that if she did not allow him to enter into the apartment to see if § 87(2)(b) was present inside then he would contact a supervisor to have the door broken down (see allegations not pleaded). § 87(2)(b) requested that uniformed officers arrive to the location. Police Officer Davin requested that 84<sup>th</sup> Precinct officers respond to the location in response to § 87(2)(b)'s request.

Approximately thirty minutes later, Police Officers Steven Nieves and April McClaine of the 84<sup>th</sup> Precinct arrived to the location and entered into § 87(2)(b)'s apartment (see allegations not pleaded). After a conversation with Police Officers McClaine and Nieves, § 87(2)(b) provided consent to Police Officer Davin to enter and search the apartment for § 87(2)(b) (**Allegation B**). Police Officers Davin and Nieves searched the apartment (see allegations not pleaded). After a two minute walk through, the officers confirmed that § 87(2)(b) was not in the apartment and left the location. § 87(2)(b) was not arrested or issued a summons in regards to this incident.

### Video Footage

- No video footage was found regarding this incident.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected to mediate because she wanted an investigation.
- According to the NYC Comptroller's Office, as of February 16, 2017, § 87(2)(b) has not filed a Notice of Claim regarding this incident (Board Review 02).
- § 87(2)(b) has no prior criminal convictions.

### Civilian and Officer CCRB Histories

- § 87(2)(b) has no prior CCRB complaints.
- Police Officer Drews has been a member of the NYPD for nine years and has two allegations in two cases with no substantiated allegations and is currently involved in open CCRB case #201700224 (see officer history).
- Police Officer Davin has been a member of the NYPD for five years and has five allegations in four cases with no substantiated allegations (see officer history).

## **Findings and Recommendations**

### **Explanation of Subject Officer Identification**

On January 25, 2017, § 87(2)(b) was interviewed at the CCRB (Board Review 01). § 87(2)(b) described the officer who threatened to break down her door as a white male, 5'8" – 5'9" tall, with blonde hair and wearing plain clothes. This officer provided his business card to § 87(2)(b) during the incident which identified him as Investigator Chris Drews with shield #19602 from the Bronx Warrant Squad. § 87(2)(b) described his partner whom she allowed to enter and search her apartment as a white male with brunette hair and wearing plain clothes. According to Police Officer Drews' memo book and the Bronx Warrant Squad roll call, he was partnered with Police Officer Davin on the incident date and they both responded to § 87(2)(b)'s house for an arrest warrant issued for § 87(2)(b) (Board Reviews 02 and 03).

### **Allegations not pleaded**

- **Threat to damage property:** § 87(2)(b) alleged that Police Officer Drews told her that if she did not open the apartment door he would contact a supervisor to break down the door to gain entry. This threat of property damage is being subsumed within the scope of a valid entry on an arrest warrant. § 87(2)(g)
- **Entry and search:** As previously explained in the case summary, § 87(2)(b)'s apartment door was already open at the time she requested that Police Officers Nieves and McClaine arrive to the location. § 87(2)(b) acknowledged to permitting Police Officers Nieves and McClaine to enter into her apartment. § 87(2)(g)

### **Allegation A – Abuse of Authority: Police Officer Christopher Drews entered § 87(2)(b) in Brooklyn.**

### **Allegation B – Abuse of Authority: Police Officer Joseph Davin entered and searched § 87(2)(b) in Brooklyn.**

It is undisputed that Police Officers Drews and Davin of the Bronx Warrant Squad arrived to § 87(2)(b)'s residence in response to an arrest warrant for § 87(2)(b)'s nephew § 87(2)(b). When § 87(2)(b) opened the door of the apartment, Police Officer Drews showed her a warrant and asked her if § 87(2)(b) was home at that time. § 87(2)(b) was not present in the apartment. While speaking to the officers, § 87(2)(b) attempted to close the door. Officers from the 84<sup>th</sup> Precinct were called to the location following § 87(2)(b)'s request for uniformed officers. After conversing with Police Officers Nieves and McClaine, § 87(2)(b) gave Police Officers Davin and Nieves permission to enter the home.

§ 87(2)(b) stated that while speaking to Police Officers Drews and Davin at the door, Police Officer Drews briefly presented her a piece of paper with the photo of her nephew § 87(2)(b) (Board Review 01). He then requested permission to enter into the apartment to investigate if § 87(2)(b) was in the apartment. § 87(2)(b) informed the officers several times that § 87(2)(b) was not inside the apartment and refused to allow the officers to enter her apartment to look for § 87(2)(b). As she attempted to close the apartment door, Police Officer Drews placed his foot in the doorway to prevent it from closing. § 87(2)(b) requested several times that Police Officer Drews remove his foot from the doorway so she could close the door.

Police Officer Drews responded that if § 87(2)(b) did not allow them to enter into the apartment to investigate if § 87(2)(b) was in the apartment he would call a supervisor to the location to authorize the breaking down of her apartment door. § 87(2)(b) wanted to call the police to have uniformed officers respond to the location and attempted to close the door so she could retrieve her cellphone from the kitchen. Police Officer Drews did not allow her to close the door and instead ordered Police Officer Davin to call 911 for an additional unit.

Approximately thirty minutes later, Police Officers Nieves and McClaine of the 84<sup>th</sup> Precinct arrived to § 87(2)(b)'s apartment. § 87(2)(b) allowed Police Officers Nieves and McClaine to enter into her apartment while Police Officers Drews and Davin remained outside in the hallway. § 87(2)(b) explained to the officers that she was discontent with her interaction with Police Officer Drews. Police Officer McClaine asked § 87(2)(b) if she was fine with Police Officer Davin entering into the apartment to look for § 87(2)(b). § 87(2)(b) stated that since she had no issues with Police Officer Davin she would allow him to enter into her apartment to conduct a search for § 87(2)(b). Police Officer Davin entered into the apartment while Police Officer Drews remained in the hallway. Police Officers Davin and Nieves conducted a two minute walk through of the apartment while § 87(2)(b) and Police Officer McClaine waited in the kitchen. § 87(2)(b) heard the officers opening and closing the bedroom closet doors. After completing their walk through and confirming that § 87(2)(b) was not in the apartment, the officers left the apartment. § 87(2)(b) requested Police Officer Drews' name and shield. He provided his business card to § 87(2)(b) and left the location.

The Bronx Warrant Squad provided the open arrest warrant dated on § 87(2)(b), for § 87(2)(b) (Board Review 04), an open bench warrant dated on § 87(2)(b), for § 87(2)(b) (Board Review 05), I-Cards #§ 87(2)(b) and #§ 87(2)(b) both dated on § 87(2)(b), for § 87(2)(b) (Board Reviews 06 and 07), I-Card #§ 87(2)(b) dated on § 87(2)(b), for § 87(2)(b) (Board Review 08), and the Warrant Investigative Data Sheet conducted for § 87(2)(b) (Board Review 09). All mentioned documents listed § 87(2)(b)'s address as § 87(2)(b) in Brooklyn, § 87(2)(b)'s residence. A BADS search resulted in multiple prior arrest reports which listed § 87(2)(b)'s residence as § 87(2)(b) in Brooklyn, including his most recent arrest on § 87(2)(b) (Board Review 10). A DMV search listed § 87(2)(b)'s address as § 87(2)(b) in Brooklyn (Board Review 11).

An arrest warrant founded on probable cause carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within. Payton v. New York, 445 U.S. 573 (1980) (Board Review 12). In order to effect an arrest, a police officer may enter any premises in which he reasonably believes the defendant to be present. New York Criminal Procedure Law § 120.80, sub section 4 (Board Review 13).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]

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Squad: 6

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date